United Nations A/72/349

General Assembly

Distr.: General
17 August 2017

Original: English

Seventy-second session
Item 77 of the provisional agenda*
Report of the International Criminal Court

Report of the International Criminal Court

Note by the Secretary-General

The annual report of the International Criminal Court on its activities in 2016/17 is submitted herewith to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court and paragraph 28 of Assembly resolution 71/253.

* A/72/150.

17-14236 (E) 120917

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Report of the International Criminal Court on its activities in 2016/17

Summary

The International Criminal Court continued to experience a heavy workload during the reporting period. The Prosecutor is engaged in ongoing investigations relating to 10 situations. Two judgments were issued, in which six accused were convicted and sentenced, three trials are ongoing and two cases are on appeal. The Court has become increasingly busy with proceedings relating to reparations to victims, these being under way in four cases at present.

Since the start of its operations, the Court has opened a total of 25 cases and conducted investigations in 10 situations: the Central African Republic I and II, Côte d'Ivoire, Darfur (Sudan), the Democratic Republic of the Congo, Georgia, Kenya, Libya, Mali and Uganda.

In addition to its investigations, the Office of the Prosecutor is currently conducting 10 preliminary examinations. During the reporting period, the Office opened a preliminary examination of the situation in Gabon following the referral of Gabon with respect to alleged crimes committed on its territory since May 2016, and continued activities relating to preliminary examinations in Afghanistan, Burundi, Colombia, Guinea, Nigeria, Iraq/United Kingdom of Great Britain and Northern Ireland, Ukraine and the State of Palestine, and with respect to the registered vessels of the Comoros, Greece and Cambodia.

The Court continued to enjoy a highly valuable cooperation with the United Nations on a range of issues including, notably, operational assistance in the field, making United Nations staff available for interview and sometimes testimony and the disclosure of information generated by the United Nations, provided on a reimbursable basis. The cooperation, assistance and support of States parties to the Rome Statute of the International Criminal Court and other States remained equally important to the Court's mandate during the reporting period.

With respect to the situation in Mali, the Court heard its first case involving the destruction of cultural property, namely attacks against historic monuments and buildings dedicated to religion in Timbuktu, Mali. This was also the Court's first case involving an admission of guilt by the accused, Mr. Ahmad Al Faqi Al Mahdi. He was found guilty on 27 September 2016 and sentenced to nine years of imprisonment; a reparations order was issued on 17 August 2017.

The Court issued its first judgment on charges of offences against the administration of justice on 19 October 2016, convicting all five accused in the trial of *Bemba et al.* with respect to the situation in the Central African Republic. Appeals against the convictions and sentencing are pending.

With regard to the situation in Uganda, the trial of Dominic Ongwen, who is charged with 70 counts of war crimes and crimes against humanity, started on 6 December 2016. This is the Court's first trial related to the situation in Uganda.

Court-issued requests for arrest and surrender are outstanding for 15 individuals as at 16 August 2017, as follows:

(a) Democratic Republic of the Congo: Sylvestre Mudacumura, since 2012;

(b) Uganda: Joseph Kony and Vincent Otti, since 2005;

(c) Darfur: Ahmad Harun and Ali Kushayb, since 2007; Omar Al Bashir, since 2009 and 2010; Abdel Raheem Muhammad Hussein, since 2012; and Abdallah Banda, since 2014;

(d) Kenya: Walter Barasa, since 2013; and Paul Gicheru and Philip Kipkoech Bett, since 2015;

(e) Libya: Saif Al-Islam Gaddafi, since 2011; Al-Tuhamy Mohamed Khaled, since 2013; and Mahmoud Mustafa Busayf Al-Werfalli, since August 2017;

(f) Côte d'Ivoire: Simone Gbagbo, since 2012.

The Trust Fund for Victims announced the launch of an assistance programme in Côte d'Ivoire and continued assistance projects involving physical and psychological rehabilitation, as well as material support, in northern Uganda and the Democratic Republic of the Congo, having to date assisted over 455,000 victims.

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I. Introduction

1. The present report, covering the period from 1 August 2016 to 31 July 2017, is submitted in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court (see A/58/874, annex, and A/58/874/Add.1). Detailed information on situations and cases is available on the Court's website.

II. Update on judicial and prosecutorial activities

A. Preliminary examinations

2. During the reporting period, the Office of the Prosecutor opened a preliminary examination of the situation in Gabon and continued preliminary examinations of the situations in Afghanistan, Burundi, Colombia, Guinea, Iraq/United Kingdom, Nigeria, Ukraine and the State of Palestine and with respect to the registered vessels of the Comoros, Greece and Cambodia. The Office published a report on its preliminary examination activities on 14 November 2016 on the occasion of the fifteenth session of the Assembly of States Parties to the Rome Statute.

3. The Office of the Prosecutor continued to analyse information received alleging the commission of crimes potentially falling within the Court's jurisdiction. From 1 August 2016 to 30 June 2017, the Office registered 556 communications submitted under article 15, of which 359 were found to be manifestly outside of the Court's jurisdiction; 48 were found to be unrelated to current situations and warranting further examination; 71 were found to be linked to situations already under examination; and 78 were linked to existing investigations or prosecutions.

1. Afghanistan

4. During the reporting period, the Office of the Prosecutor focused on concluding its determination under article 53 (1) as to whether there was a reasonable basis to proceed with an investigation into the Afghanistan situation. The Office engaged with a number of stakeholders to gather additional information needed to assess admissibility and the interests of justice, including the gravity of crimes and the interests of victims.

5. The Office is currently examining further information provided by the national authorities in 2017 on potential investigations and prosecutions arising from acts allegedly committed on the territory of Afghanistan.

2. Burundi

6. Since the opening of the preliminary examination of the situation in Burundi on 26 April 2015, the Office of the Prosecutor has gathered and analysed article 15 communications, open-source information and documentation from intergovernmental organizations concerning acts of killing, imprisonment, torture, rape and other forms of sexual violence, as well as enforced disappearances allegedly committed since April 2015. The Government of Burundi has submitted information on potentially relevant national proceedings, which the Office has also considered.

3. Colombia

7. The Office of the Prosecutor continued to engage with the authorities of Colombia to obtain additional details on any relevant genuine investigative steps and prosecutorial activities undertaken by national authorities.

8. The Office updated its analysis of the allegations of "false positive" killings and related national investigations and prosecutions. The Office also continued to assess relevant national proceedings relating to sexual and gender-based crimes and forced displacement, and analysed the provisions of the peace agreement with the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP) and subsequent legislation on the establishment of the Special Jurisdiction for Peace, to the extent the envisaged system is likely to inform the Office's assessment on admissibility.

4. Gabon

9. On 21 September 2016, the Government of Gabon referred the situation on its territory since May 2016 to the International Criminal Court, with no end date. On 29 September 2016, the Office of the Prosecutor issued a statement announcing the opening of a preliminary examination focused on alleged crimes committed in Gabon in the context of the presidential elections held on 27 August 2016.

10. The Presidency assigned the situation to Pre-Trial Chamber II on 4 October 2016.

11. The Office has assessed the supporting materials and documentation accompanying the referral, article 15 communications and media reports, and conducted a mission to Libreville from 20 to 22 June 2017, holding meetings with a broad range of stakeholders.

5. Guinea

12. The Office of the Prosecutor actively monitored national proceedings relating to the 28 September 2009 events and encouraged the authorities of Guinea to hold to their commitment to set the stage for a trial in 2017. The Office also kept abreast of legislative developments that may have an impact on that commitment, such as the July 2016 adoption of a new code of criminal procedure and criminal code, which includes Rome Statute crimes.

13. In February 2017, the Office conducted a mission to Conakry to assess the status of and proposed timeline for national investigations and prosecutions.

6. Iraq/United Kingdom

14. The Office of the Prosecutor continued to assess whether there was a reasonable basis to believe that nationals of the United Kingdom committed crimes falling within the Court's subject-matter jurisdiction in Iraq from March 2003 to July 2009.

15. The Office has also received and considered information on the progress of ongoing relevant national proceedings in the United Kingdom, including assessing the impact of national disciplinary proceedings in the United Kingdom addressing professional misconduct with respect to law firms which provided article 15 communications to the Office. During the reporting period, the Office continued to engage with national authorities and conducted a mission to London and Upavon, United Kingdom, in February 2017 to meet with United Kingdom Government officials and the Iraq Historic Allegations Team.

7. Nigeria

16. The Office of the Prosecutor analysed information on a variety of crimes allegedly committed in different contexts, including alleged sexual and gender-based crimes in the armed conflict between Boko Haram and Nigerian security

forces. The Office also gathered information on Nigerian national proceedings possibly relating to eight potential cases identified by the Office.

17. In September 2016, the Office took part in a technical meeting convened by the Attorney General in Abuja for the purpose of receiving updated information and supporting documentation on Nigerian national proceedings. Follow-up missions to Abuja and Lagos, Nigeria, took place in March, May and June 2017. During the mission in June 2017, the Prosecutor met with the Acting President of Nigeria, the Ministers for Foreign Affairs and Defence, the Solicitor General and high-ranking military officials.

8. State of Palestine

18. The Office of the Prosecutor continued to analyse information on the situation in the State of Palestine, including with respect to crimes allegedly committed by both parties to the Gaza conflict of 2014 and crimes allegedly committed in the West Bank and East Jerusalem since 13 June 2014.

19. In October 2016, the Office conducted a visit to Israel and the State of Palestine, facilitated by the respective authorities, with a view to awareness-raising on the preliminary examination process. The Office travelled to Bethlehem, Jerusalem, Ramallah and Tel Aviv, and held meetings with Israeli and Palestinian officials. During the reporting period, the Office continued its engagement with the authorities of both Israel and the State of Palestine.

9. Ukraine

20. Subsequent to the second article 12 (3) declaration by Ukraine lodged on 8 September 2015 granting the Court jurisdiction from 20 February 2014 onwards, and following the receipt of a large volume of article 15 communications from the Government of Ukraine, Ukrainian non-governmental organizations and others, the Office of the Prosecutor continued to analyse whether there were alleged crimes falling within the jurisdiction of the Court, in particular relating to Crimea and hostilities in eastern Ukraine. The Office conducted missions to Kyiv in October 2016 and April 2017.

10. Registered vessels of the Comoros, Greece and Cambodia

21. Following the request of Pre-Trial Chamber I for the Prosecutor to reconsider her prior decision, the Office of the Prosecutor is conducting a de novo review of all available information upon which it based its 6 November 2014 decision not to open an investigation, including the reports of four commissions that previously examined the flotilla incident and supporting materials and documentation accompanying the Comoros referral and received thereafter.

22. The Prosecutor exercised her independent discretion under article 53 (4) to consider the significance, if any, of information made available since the 6 November 2014 decision, including further information received from the legal representatives of the Comoros and participating victims.

B. Situations and cases

23. During the reporting period, 2,089 victims were admitted to participate in proceedings before the Court. The Court also received 13 new applications for participation of victims, 2,207 applications for reparations and 2,505 applications for both participation and reparations. This brings the total number of applications received in the reporting period to 4,725.

1. Situation in the Democratic Republic of the Congo

(a) Investigations

24. The Office of the Prosecutor continued its investigations in support of ongoing cases, undertaking 16 missions to six countries. It conducted missions in relation to the case of Bosco Ntaganda for the purposes of collecting evidence, screening and interviewing witnesses and securing continued cooperation. In addition, the Office requested the lifting of restrictions on the use of documentation of the United Nations and governmental and non-governmental sources at trial, and has sought the assistance of these same partners in making available current or former staff members for testimony.

25. The Office also continued its investigations into alleged crimes committed by the Forces démocratiques de libération du Rwanda in the Kivu provinces. The Office followed developments in the Democratic Republic of the Congo and the region, including disarmament, demobilization and reintegration efforts supported by the United Nations, to encourage the arrest and surrender of Mr. Sylvestre Mudacumura.

26. Active examination of other alleged crimes and potential cases related to the situation in the Democratic Republic of the Congo continued. The Prosecutor issued statements regarding the situation in the Democratic Republic of the Congo in September and October 2016 in relation to violence in Kinshasa and to the March 2017 events in the Kasai Provinces. The Office also undertook related missions to the Democratic Republic of the Congo.

27. The Office of the Prosecutor and the authorities of the Democratic Republic of the Congo proactively discussed closing the impunity gap and fostering support for national investigations by the authorities of the Democratic Republic of the Congo and third States.

(b) Judicial proceedings

The Prosecutor v. Thomas Lubanga Dyilo

28. Mr. Lubanga is currently serving the remainder of his sentence in the Democratic Republic of the Congo. Proceedings for a review of his sentence under article 110 are ongoing.

29. On 3 November 2015, the Trust Fund for Victims submitted a draft implementation plan on reparations to Trial Chamber II. On the Chamber's instruction, the Trust Fund submitted additional information on proposed symbolic and collective reparations projects, which the Chamber approved on 21 October 2016 and on 6 April 2017, respectively. The Trust Fund subsequently set out to select local partners to implement the awards. The Chamber is in the process of setting the amount of Mr. Lubanga's liability for reparations.

30. On 15 July 2016, Trial Chamber II issued an order instructing the Registry to provide aid and assistance to the legal representatives of victims and the Trust Fund to identify victims potentially eligible for reparations. Following missions to the field, a number of relevant applications for reparations were collected and entered into the proceedings. During the reporting period, 474 applications for reparations were filed.

The Prosecutor v. Germain Katanga

31. Mr. Katanga completed his sentence on 18 January 2016, but remains in detention in the Democratic Republic of the Congo on separate domestic charges.

32. On 24 March 2017, Trial Chamber II issued its reparations order under article 75, awarding individual and collective reparations to victims of crimes for which Mr. Katanga was convicted. The Chamber set the amount of Mr. Katanga's liability at $1 million. Noting Mr. Katanga's indigence, the Chamber invited the Board of Directors of the Trust Fund to consider using its own resources to initially fund the reparations awards.

33. On 17 May 2017, the Board of Directors of the Trust Fund for Victims notified the Chamber that it had decided to provide funding to allow for payment of the awards, including a contribution from The Netherlands specifically earmarked for the individual reparation awards ordered by the Chamber.

34. The Trust Fund for Victims submitted its plan for implementation of the reparations order on 25 July 2017. The plan is currently under review by the Chamber.

35. Mr. Katanga's defence team, the Office of Public Counsel for Victims and the legal representatives of the majority of victims claiming reparations filed appeals on 25 and 26 April 2017 against Trial Chamber II's reparations order. Documents in support of the appeals were filed on 27 June 2017.

The Prosecutor v. Bosco Ntaganda

36. The Prosecution formally closed its case in chief on 29 March 2017, after having called a total of 71 witnesses since the beginning of the trial on 2 September 2015. On 2 and 3 March 2017, five victims appeared to present their views and concerns, and from 10 to 12 April 2017, three victims appeared to give evidence. The Trial Chamber rejected a request by the defence for a stay of the proceedings on 28 April 2017. On 29 May 2017, the defence commenced its presentation of evidence, which is expected to conclude in 2018.

37. The Appeals Chamber resolved two appeals raised by the defence on 8 March 2017 and 15 June 2017, respectively: first, an interlocutory appeal relating to Mr. Ntaganda's communications while in detention, and second, a jurisdictional appeal related to the charges of the war crimes of rape and sexual slavery.

38. The defence filed an interlocutory appeal against Trial Chamber VI's decision denying leave to file a "no case to answer" motion on 14 June 2017.

2. Situation in the Central African Republic

(a) Investigations

39. The Office of the Prosecutor conducted 80 missions to 10 countries. Maintaining and building upon ongoing cooperation with authorities of the Central African Republic and of several neighbouring countries and the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic remains a priority for the Office.

40. The Office continues to monitor and encourage national proceedings in relation to all parties to the conflict and to all individuals potentially responsible for crimes under the Court's jurisdiction, and closely follows developments related to the Special Criminal Court in the Central African Republic. In line with its strategic goal 9, the Office stands ready to cooperate and exchange best practices with all judicial actors in the Central African Republic. Discussions have taken place on possible constructive interactions between the Court and such actors, including during a pilot visit to the Court in June/July 2017, made possible by financial support from the European Union.

(b) Judicial proceedings

The Prosecutor v. Jean-Pierre Bemba Gombo

41. On 21 March 2016, Trial Chamber III unanimously found Mr. Bemba guilty of two counts of crimes against humanity (murder and rape) and three counts of war crimes (murder, rape and pillaging). On 21 June 2016, the Trial Chamber sentenced Mr. Bemba to 18 years of imprisonment.

42. On 4 April 2016, the defence for Mr. Bemba lodged an appeal against his conviction. The document in support of the appeal was filed on 19 September 2016 and a written briefing on the appeal was concluded on 9 February 2017.

43. On 22 July 2016, the Prosecutor and the defence appealed the sentencing decision. They filed their documents in support of the appeals on 21 October 2016 and the written briefing on the appeals was concluded on 23 February 2017.

44. Reparation proceedings in the case have commenced and a reparations order is expected in early 2018.

45. On 22 July 2016, Trial Chamber III issued an order requesting submissions relevant to reparations, including the identification of experts in five key areas. By June 2017, the Chamber had established a panel of four experts to report to the Chamber on reparations issues; that report is expected in September 2017.

46. A total of 5,229 victims are participating in this case.

The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido

47. In the Court's first trial in relation to charges of offences against the administration of justice under article 70 of the Rome Statute, Trial Chamber VII delivered its judgment on 19 October 2016, convicting all five accused, and delivered its decision on sentencing on 22 March 2017. Mr. Babala was sentenced to six months of imprisonment and Mr. Arido to 11 months of imprisonment, with both sentences considered served in light of time spent in custody. Mr. Mangenda was sentenced to two years of imprisonment, with the remainder of his sentence (after the deduction of time spent in custody) being suspended. Mr. Kilolo was sentenced to two years and six months of imprisonment, with the remainder of his sentence (after deduction of time spent in custody) being suspended and a fine of €30,000 being imposed. Mr. Bemba was sentenced to one additional year of imprisonment, to be served consecutively to his existing sentence, and a fine of €300,000. The Chamber ordered the monetary fines to be paid to the Court and thereafter transferred to the Trust Fund for Victims.

48. In early November 2016 all five defendants appealed their convictions and on 24 April 2017 they filed documents in support of their appeals. The defence teams of Messrs. Arido, Babala and Bemba, as well as the Prosecutor, appealed the sentencing decision and filed documents in support of their appeals on 21 June 2017. Written briefing is ongoing in the appeals related to conviction as well as sentencing.

3. Situation in Uganda

(a) Investigations

49. The Office of the Prosecutor conducted 29 missions to two countries to further investigate the case involving Dominic Ongwen and continues to undertake missions in support of that trial. The Office also continues to encourage national proceedings in relation to both parties to the conflict.

50. From 31 July to 8 August 2017, the Office of the Prosecutor and the Registry undertook a joint outreach mission to Uganda, where they met members of the affected communities of Gulu, Pajule, Lukodi, Abok, Odek, Lira and Soroti, including cultural and religious leaders and representatives of civil society organizations. Court officials provided an update on Mr. Ongwen's trial, building on extensive outreach activities conducted by the Court during the reporting period through its field presence.

(b) Judicial proceedings

The Prosecutor v. Dominic Ongwen

51. The trial of Mr. Ongwen, charged with 70 counts of crimes against humanity and war crimes, commenced on 6 December 2016 before Trial Chamber IX. The Chamber is currently hearing the prosecution's presentation of evidence, which is expected to run until the second quarter of 2018. The prosecution has thus far called 24 witnesses.

52. Following the Trial Chamber's decision of 30 May 2016, the Registry has collected 2,101 applications for participation in the proceedings. For these applications, the Trial Chamber granted 2,083 victims participatory status, bringing the total number to 4,107.

4. Situation in Darfur

(a) Investigations

53. The Office of the Prosecutor conducted 26 missions to 12 countries and continues to monitor trends that could constitute Rome Statute crimes, including alleged aerial bombardments, ground attacks, killings, attacks on civilians, sexual violence, forced displacement, attacks on humanitarian aid workers and peacekeepers and arbitrary detentions.

54. As highlighted in its December 2016 and June 2017 reports to the Security Council, the investigations by the Office continue. Although the Office is constrained by the non-execution of the arrest warrants, a lack of support from the Council and a severe lack of resources, it continues to interview witnesses, gather documentary evidence, develop investigative leads and refine systems to gather information.

(b) Judicial proceedings

The Prosecutor v. Omar Hassan Ahmad Al Bashir

55. On 7 April 2017, Pre-Trial Chamber II held a public hearing with the participation of representatives of the Government of South Africa and the Office of the Prosecutor to determine whether to issue a finding of non-compliance against South Africa for failing to give effect to the Court's request for the arrest and surrender of Omar Al Bashir while he was on South African territory from 13 to 15 June 2015.

56. On 6 July 2017, Pre-Trial Chamber II found that South Africa had failed to comply with its obligations under the Statute by not executing the Court's request for arrest and surrender. The Chamber went on to determine that, given South Africa's acceptance of the findings of its domestic courts that it was under an obligation to arrest and surrender Mr. Al Bashir and its willingness to seek a final legal determination from the Court on the matter, referral of the matter to the Assembly of States Parties and/or the Security Council was not appropriate. The Chamber further observed that despite proposals from various States to develop a

follow-up mechanism concerning such referrals of States to the Security Council by the Court, past referrals had not resulted in the taking of measures by the Council to address instances of failure by States parties to arrest and surrender Mr. Al Bashir.

5. Situation in Kenya

Investigations

57. The Office of the Prosecutor continued to receive information on the alleged commission of crimes against humanity during the post-election violence of 2007-2008 and conducted two missions to two countries.

58. The Office continues to investigate alleged instances of offences against the administration of justice (under article 70).

6. Situation in Libya

(a) Investigations

59. The Office of the Prosecutor conducted 44 missions to nine countries, continues to monitor allegations of crimes reportedly committed in Libya by a multitude of actors and received close cooperation from the United Nations Support Mission in Libya.

60. On account of the current security situation, access to Libyan territory to conduct in situ investigative activities remains challenging. Regardless, the Office has acquired new evidence and is currently determining whether to seek additional arrest warrants.

61. To maximize the impact of its limited resources, the Office has endeavoured to bring together national and international law enforcement agencies working on the situation in Libya to share information and experiences.

(b) Judicial proceedings

The Prosecutor v. Saif Al-Islam Gaddafi

62. On 21 November 2016, Pre-Trial Chamber I rejected the Prosecutor's request to transmit a request for Mr. Gaddafi's arrest and surrender to Mr. Al-Ajami al-Atiri, Commander of the Abu Bakr al-Siddiq Battalion based in Zintan, Libya, finding that the Court cannot direct its cooperation requests to non-State entities without the prior approval of the de jure Government.

The Prosecutor v. Al-Tuhamy Mohamed Khaled

63. On 24 April 2017, Pre-Trial Chamber I decided to unseal, upon the Prosecutor's request, the arrest warrant it issued on 18 April 2013 against Mr. Al-Tuhamy Mohamed Khaled, former head of the Internal Security Agency of Libya, charged with crimes against humanity and war crimes committed on Libyan territory from 15 February to 24 August 2011.

7. Situation in Côte d'Ivoire

(a) Investigations

64. The Office of the Prosecutor conducted 47 missions to 10 countries, continuing its investigation of crimes allegedly committed by all parties involved in the 2010-2011 post-election violence.

65. The Registry received 2,858 victim applications during the reporting period.

(b) Judicial proceedings

The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé

66. On 28 January 2016, Trial Chamber I commenced the trial of Messrs. Gbagbo and Blé Goudé. The Prosecution's presentation of evidence continues; 57 prosecution witnesses have testified as at June 2017 and 30 additional witnesses are expected to testify by the end of January 2018, when the prosecution is expected to complete the presentation of its case.

67. No new victims were accepted to participate during the reporting period. The total number of participating victims remains at 726.

68. The Appeals Chamber resolved three interlocutory appeals of the defence teams relating to: (a) the introduction of prior recorded testimony on 1 November 2016; (b) the disclosure of information and the lifting of redactions on 11 May 2017; and (c) the Prosecutor's submission of documentary evidence on 24 July 2017. On 19 July 2017, the Appeals Chamber reversed the decision of Trial Chamber I to keep Mr. Gbagbo in detention and directed that Chamber to review his continued detention.

8. Situation in Mali

(a) Investigations

69. The Office of the Prosecutor conducted 23 missions to four countries.

70. In addition to its successful investigation and prosecution of Ahmad Al Faqi Al Mahdi for attacks against buildings dedicated to religion and historic monuments in the situation in Mali, the Office continues to gather evidence on alleged sexual and gender-based crimes and other possible war crimes and crimes against humanity. In addition to national authorities, United Nations entities, in particular the United Nations Multidimensional Integrated Stabilization Mission in Mali and the United Nations Educational, Scientific and Cultural Organization (UNESCO) have cooperated with the Court.

(b) Judicial proceedings

The Prosecutor v. Ahmad Al Faqi Al Mahdi

71. The trial of Ahmad Al Faqi Al Mahdi took place from 22 to 24 August 2016. At the opening of the trial, Mr. Al Mahdi admitted guilt for the war crime of intentionally directing attacks against historic monuments and buildings, specifically with respect to attacks against 10 historic and religious monuments in Timbuktu, Mali, between about 30 June 2012 and 11 July 2012. On 27 September 2016, being satisfied that Mr. Al Mahdi understood the nature and consequences of his admission of guilt and that his admission was voluntarily made after sufficient consultation with defence counsel and was supported by the facts of the case, Trial Chamber VIII convicted Mr. Al Mahdi and sentenced him to nine years of imprisonment. A reparations order was issued on 17 August 2017.

72. The Registry transmitted 139 applications for reparations to the Chamber and the parties to the proceedings.

9. Situation in Georgia

73. The Office of the Prosecutor conducted 19 missions to four countries, as it continued to investigate the alleged crimes against humanity of murder, forcible transfer of population and persecution and the war crimes of attacks against the

civilian population, wilful killing, intentionally directing attacks against peacekeepers, destruction of property and pillaging.

74. The Office undertook a mission to Tbilisi from 15 to 20 May 2017 in furtherance of its investigation. Part of the mission was dedicated to joint outreach activities with the Registry for the purpose of raising awareness on the International Criminal Court and its work.

75. On 25 July 2017, the Court and the Government of Georgia concluded a cooperation agreement to facilitate the Court's activities and ongoing investigations in the country. Building on Georgia's existing obligations under the Rome Statute and the Agreement on the Privileges and Immunities of the International Criminal Court, the cooperation agreement provides a clear channel of communication for the purposes of assistance, notification and cooperation, including on necessary security measures for persons interacting with the Court.

III. International cooperation

A. Cooperation with the United Nations

1. General cooperation with United Nations Headquarters

76. The Relationship Agreement between the United Nations and the Court establishes a framework for many forms of mutual cooperation, including information exchange, the provision of services and facilities, judicial assistance, the appearance of United Nations staff in court to provide testimony and field support. Specific forms of cooperation have been negotiated and provided for through supplementary agreements.

77. The Court welcomes the issuance by the United Nations on 26 September 2016 of the "Best practices manual for United Nations-International Criminal Court cooperation", which has contributed to further streamlining cooperation between the two institutions.

78. During the reporting period, the Court continued to receive crucial support and cooperation from the senior leadership of the United Nations. The Court is, in particular, very grateful for the support of the previous Secretary-General and equally welcomes the supportive engagement of the current Secretary-General and his team, and looks forward to continued close collaboration. The Court also recognizes the critical cooperation received from the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel as the interface between the Court and the United Nations, particularly in the transmission and coordination of judicial cooperation requests. The Court continued to finance a P-3 Legal Officer position within the Office of Legal Affairs of the Secretariat in order to handle the work generated by matters related to cooperation between the United Nations and the Court.

79. Support to the Court was also provided by the Department of Peacekeeping Operations, the Department of Political Affairs, the Department of Safety and Security, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office at Geneva, the Office of the United Nations High Commissioner for Refugees, the Office for the Coordination of Humanitarian Affairs and the United Nations Office on Drugs and Crime and the special advisers and special representatives of the Secretary-General on the prevention of genocide, the responsibility to protect, children and armed conflict, sexual violence in conflict, and Libya. The Court also interacted with United Nations agencies, funds and programmes, including the United Nations Entity for Gender Equality and the

Empowerment of Women and UNESCO, which provided valuable support, particularly to the Office of the Prosecutor, as well as the United Nations Development Programme and the United Nations Institute for Training and Research. The Secretariat and several United Nations organizations provided reimbursable services such as services related to security, medical and transportation assistance, training and travel support.

80. The principals of the Court continued to hold high-level consultations with senior United Nations officials, including the newly appointed and outgoing Secretaries-General, the newly appointed Deputy Secretary-General, the Legal Counsel, the United Nations High Commissioner for Human Rights, the Director-General of UNESCO and relevant special representatives and special advisers of the Secretary-General, to discuss matters of mutual interest and to seek support from the United Nations. The Prosecutor's biannual briefings to the Security Council in relation to the situations in Darfur and Libya provided an opportunity to keep the Council and United Nations Member States informed of progress and of challenges faced with respect to those investigations, in particular the lack of execution of outstanding arrest warrants.

81. The Court continued to explore opportunities for further engagement with key United Nations partners at the working level, including through regular round-table meetings between the United Nations and the Court to discuss practical cooperation arrangements, best practices, lessons learned and the challenges ahead. The Court looks forward to the next meeting, expected to take place in December 2017.

82. Although the Court is not a party to the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations applying the United Nations Common System of Salaries and Allowances, it voluntarily supports the movement of personnel in accordance with the provisions of the Agreement. During the reporting period, 11 staff members were seconded to the Court from other tribunals or international organizations. One staff member of the International Criminal Court was similarly seconded.

83. During the reporting period, the Court continued to cooperate with the United Nations common system organizations, by participating in inter-agency meetings on facilities management, travel and security.

84. The Court's representation at the United Nations in the form of a small Liaison Office in New York provides an important channel of communication between the Court and the United Nations Secretariat and agencies, funds and programmes and facilitates the maintenance and further development of the relationship and cooperation between the Court and the United Nations, as well as between the Court and permanent and observer missions to the United Nations in New York.

2. Cooperation with peacekeeping missions and other United Nations presences in the field

85. With respect to the situations in the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Kenya, Mali and Uganda, the Court continued to benefit from cooperation from United Nations field presences, with due regard to their mandates and subject to the agreement of the host States. The Court re-established its physical field office in the Central African Republic in May 2017.

86. Following the reorganization of the Registry, the Court's field offices are staffed with a Chief of Field Office and are better equipped to operate effectively, particularly in terms of engagement with national authorities and local communities and cooperation with the United Nations and other international stakeholders. The

Chiefs of the field offices are senior level officials who also participate in United Nations meetings organized at the country level.

87. The Court continued to participate in the United Nations security management system and relied on United Nations missions for the provision of services including transportation, audiovisual communication, medical assistance, security briefings and security training, information-sharing and risk-management resources.

3. Cooperation with the Security Council

88. The Court and the Security Council have different, but complementary, roles in addressing the gravest crimes of concern to the international community as a whole. Increased cooperation between the Court and the Council would contribute to the prevention of these crimes, which are destabilizing to peace and security, as well as efforts to combat impunity for such acts.

89. The prerogative of the Security Council to refer a situation to the Court can help to promote accountability in countries where grave crimes may have been committed but where the Court would otherwise have no jurisdiction. Where the Council has made such a referral, active follow-up is necessary to ensure cooperation with the Court, especially in relation to the arrest and surrender of individuals who are the subject of arrest warrants. Following the Darfur and Libya referrals, the Court has, to date, transmitted to the Council a total of 15 notifications of findings of non-cooperation. The Council has failed to respond to these communications in any substantive form.

90. The Court believes that a structured dialogue between the Court and the Council on matters of mutual interest, both thematic and situation-specific, could improve the implementation of obligations created through Council referrals and enhance the fight against impunity.

91. The Court welcomes the proposal of a number of States during the Security Council open debate in October 2012, and in subsequent engagements, to hold regular exchanges between the Council and the Court, independent of mandated briefings on referred situations. These exchanges could address other situations under investigation or preliminary examination, thematic topics such as children in armed conflict, women and peace and security, the protection of cultural property, the rule of law and justice reform, and the prevention of atrocity crimes. This would allow Council members (and other United Nations Member States, as appropriate) and the Court to discuss matters of mutual interest and explore avenues of cooperation. In this respect, the Court appreciates all efforts by States towards enhancing dialogue and improving coordination between the two institutions.

92. *Sanctions committees*. The Court continues to work towards strengthening cooperation on sanctions-related matters, including through the framework of the 2015 *Compendium of the High-level Review of United Nations Sanctions*. Closer cooperation between the Security Council sanctions committees and the Court would have a positive impact on the pursuit of the common goals of the Council and the Court.

93. *Travel bans*. Travel bans imposed by the Council can facilitate the arrest of individuals who are the subject of arrest warrants by the Court, and the Court would appreciate exploring possibilities for closer coordination with the sanctions committees in this respect. The Court could also benefit from the Council's automation of the lifting of travel bans, or an otherwise such simplified or streamlined process for the purposes of transferring arrested or released individuals to or from The Hague; language to this effect could be included in sanctions resolutions.

94. *Freezing of assets*. When the Security Council, as part of its sanctions-related mandate, freezes the assets of suspects or accused persons of the Court, this may contribute to preventing the continued commission of Rome Statute crimes by removing the means needed to sustain criminal activities. More coordination around the freezing of assets, in particular the release of frozen assets, would enhance possibilities for the Court to take action to freeze and confiscate assets under applicable provisions of the Rome Statute. Such measures could be used to offset the cost of legal aid and, if the person is sentenced and a reparations decision is issued, to fund reparations to victims.

95. Regular communication and sharing of experiences between the Counter-Terrorism Committee Executive Directorate and the Court on the freezing of assets would also be of great value.

4. Mainstreaming the International Criminal Court in the United Nations system

96. The United Nations presents a unique platform for promoting the mainstreaming of the Court and the Rome Statute system of international criminal justice. Each year, the General Assembly, the Security Council and other United Nations organs, committees and commissions debate and adopt decisions and resolutions on numerous topics related to the mandate of the Court, in some cases explicitly recognizing and supporting the Court, including during the renewal of various peacekeeping mandates and the issuance by the General Assembly of its annual resolution on the International Criminal Court.

97. Linkages between the mandates of the United Nations and the Court can be strengthened through the inclusion of specific recommendations related to the Court in United Nations reports, public statements in debates and discussions within various United Nations forums and by inviting senior officials of the Court to participate in United Nations meetings relevant to the Court.

98. Considering the primary responsibility of national jurisdictions to investigate and prosecute the crimes defined in the Rome Statute and strengthening their capacity to do so effectively remains crucial to global efforts to end impunity for international crimes. In this regard, the Court strongly encourages the inclusion of issues related to the Rome Statute in legal and judicial reform programmes supported by the United Nations in the context of development assistance for the rule of law.

99. This could include the incorporation of Rome Statute crimes and principles and national processes for cooperation with the Court into national legislation and the training of legal professionals on international investigations and prosecutions, in particular within the context of the support provided by various United Nations peacekeeping operations to host States in the areas of justice and corrections in post-conflict settings. Furthermore, United Nations organizations are encouraged to consider consulting the Court, as appropriate, to benefit from its expertise in the context of such activities, for instance in the provision of assistance by the Team of Experts on the Rule of Law and Sexual Violence in Conflict to national authorities on issues related to the protection of victims and witnesses and reparations, among other things.

100. The implementation of the 2030 Agenda for Sustainable Development, particularly Sustainable Development Goal 16, provides an important platform to enhance the mainstreaming of international criminal justice issues within the framework of the rule of law and access to justice at the national and international levels. The Court stands ready to contribute expertise, as appropriate, to the efforts of interested States and relevant United Nations organizations to implement this Goal.

5. United Nations assistance to counsel

101. During the reporting period, the Registry continued to receive, with appreciation, support from the United Nations to counsel. Continued assistance in this respect and the inclusion of related provisions in agreements between the Court and the United Nations is of particular importance in the light of the principle of equality of arms.

102. The Court welcomed the visit of the focal point for the International Criminal Court in the Office of Legal Affairs to the Court in November 2016 and, in that context, the focal point's provision of briefings to staff of the Court, as well as counsel, on the "Best practices manual for United Nations-International Criminal Court cooperation" and cooperation procedures between the two institutions, including with respect to defence requests for cooperation. Similar briefings have been delivered to a majority of United Nations staff involved in matters related to cooperation between the United Nations and the Court.

B. Cooperation with and assistance from States, other international organizations and civil society

1. Judicial assistance

103. During the reporting period, the Registry transmitted 813 requests for visas to States. The Registry also transmitted 266 requests for cooperation to States.

104. During the reporting period, the Office of the Prosecutor addressed over 416 requests for assistance to over 61 different partners, including States parties, non-States parties, international and regional organizations and other public or private entities and followed up on the execution of pending requests in connection with its investigative and prosecutorial activities.

105. States continued to provide logistical support, including for the appearance of witnesses via video link, the appearance of detained witnesses and investigative and related missions. Through the Registry, States provided assistance to defence teams in support of their investigative activities, including by providing them with access to documents and other information where possible, and by issuing visas and facilitating family visits for their clients. States also provided various forms of assistance to legal representatives of victims. All of these forms of assistance are appreciated as contributing to the efficiency and fairness of proceedings before the Court.

106. The Office of the Prosecutor continued to develop an active network of judicial cooperation partners and other national contacts. Efforts were also made to enhance cooperation with national, regional and international law enforcement networks in support of the investigative needs of the Office and to assist with national proceedings, where appropriate, in accordance with the principle of complementarity.

107. The Registry and the Office continued to work closely together in developing a network of partners in the area of identification, freezing and seizure of assets so as to foster exchanges of information, and created an internal working group tasked with tracking suspects and the sharing and use of confidential information received from States and other sources.

2. International Criminal Court cooperation seminars

108. Enhancing cooperation with States parties, non-States parties, regional organizations, national bar associations and other relevant stakeholders remained

high on the Court's agenda. Generous financial contributions from the European Commission, the Netherlands, Norway and the International Organization of la Francophonie enabled the Court to organize nine high-level and technical events during the reporting period, including a high-level regional seminar on International Criminal Court cooperation and a witness protection symposium in Trinidad and Tobago; a high-level regional seminar on cooperation with the Court in the Republic of Korea; a seminar with African States parties in Addis Ababa, with the participation of the Office of the Legal Counsel of the African Union; the annual seminar for International Criminal Court focal points from situation countries; three separate events related to the protection of victims and witnesses; and one event on cooperation agreements in The Hague. These activities brought together over 270 external participants from more than 100 different States and other entities, thus strengthening the Court's capacity to implement its mandate based on improved judicial cooperation, diplomatic support and greater awareness of the Court's mandate and activities. The Court is grateful to the hosting authorities for their valuable support of these events.

3. Cooperation with other international and regional organizations

109. The Court continued to develop its interaction and cooperation with international and regional organizations, which are key partners in several priority areas, including promotion of the universality of the Rome Statute system and the adoption of national implementing legislation. The Court is keen to develop existing cooperation relationships as well as to initiate engagement with other relevant regional or intergovernmental organizations based on shared values and common objectives.

4. Cooperation with civil society

110. The Court continued to engage actively with its civil society partners and held its twenty-first annual round table with non-governmental organizations from 13 to 16 June 2017 to discuss issues of common interest.

111. The Court greatly appreciates, and continued to participate in, the activities of civil society partners to promote the universality and full implementation of the Rome Statute as well as cooperation with and awareness of the Court.

IV. Institutional developments

A. Ratifications and accessions

112. Three States parties, South Africa, Burundi and the Gambia, transmitted notifications of withdrawal from the Rome Statute to the Secretary-General of the United Nations pursuant to article 127 of the Statute, on 19 October, 27 October and 10 November 2016, respectively. However, the Gambia and South Africa subsequently reversed their previous decisions, withdrawing their notifications of withdrawal on 10 February and 7 March 2017, respectively, before they took effect. Burundi's withdrawal is set to take effect on 27 October 2017.

113. During the reporting period, three States acceded to the Agreement on the Privileges and Immunities of the International Criminal Court, bringing the total number of parties to the Agreement to 77. Four States parties ratified or notified the Secretary-General of their consent to be bound by the amendments to the Rome Statute on the crime of aggression, bringing the total number of parties to the amendments to 34. Finally, four States acceded to an amendment to article 124, bringing the total number of parties to this amendment to five.

B. Initiatives for improving the efficiency of the Court

114. The Court's organs continue to work in synergy to advance a wide range of reforms intended to enhance the efficiency of its activities and to improve governance. Further to the publication of its first report on performance indicators in 2015, the Court has developed in more detail qualitative and quantitative criteria to objectively assess the progress of its activities and achievements and to identify areas for improvement.

115. Following the success of two earlier retreats, the Court's judges held a third retreat, in June 2017 in Krakow, Poland, to discuss appeals proceedings and a number of institutional matters. This retreat allowed the judges to continue the practice of collective discussion on ways of improving and expediting judicial proceedings, including by agreeing on best practices to be reflected in the Chambers Practice Manual, or proposing amendments to the Court's current legal framework.

116. On 20 July 2017, several amendments to the Regulations of the Court, unanimously adopted by the judges, entered into force. The amendments are aimed at expediting and streamlining the Court's appeal proceedings and enhancing efficiency at all stages of the judicial process. The amendments modify three aspects of the appeal process: notices of appeal must now set out relevant grounds of appeal; the appeals procedure in respect of interim release matters will be shortened; and appeals documents must contain uniform terminology.

C. Trust Fund for Victims

117. In addition to activities relating to court-ordered reparations referenced above, the Trust Fund for Victims has continued activities under its assistance mandate. The Trust Fund and its locally based implementing partners have so far assisted over 455,000 victims in Uganda and the Democratic Republic of the Congo, providing physical and psychological rehabilitation as well as material support to survivors of Rome Statute crimes. From 23 February to 1 March 2017, the President of the Court and members of the Board of Directors of the Trust Fund conducted a visit to Uganda, where they visited assistance projects under the Fund and met with local communities. The President of the Court, accompanied by the Chair of the Board of the Trust Fund, also met with the President of Uganda and other authorities.

118. In May 2017, the Trust Fund for Victims announced the launch of an assistance programme in Côte d'Ivoire to benefit victims of Rome Statute crimes. The Trust Fund has earmarked €800,000 for the initial stages of the programme, which it hopes will begin operating in 2018. The Fund seeks further contributions from States and other entities in order to expand and sustain its assistance programmes and to maintain and increase its financial reserve so as to complement Court-ordered reparation awards.

V. Conclusion

119. The Court had another successful year, thanks in significant part to the indispensable support of the United Nations Secretariat and the various United Nations agencies, funds and programmes, States and other entities. The steadfast commitment of these partners is crucial to the Court's ability to ensure accountability for crimes, provide justice to victims and help prevent future crimes, as foreseen by the architects of the Rome Statute system. To adjust to newly emerging challenges facing both the United Nations and the Court, the two

organizations must strive to further strengthen their cooperation and continuously reassert the relevance and importance of international criminal justice in securing the rule of law and international peace and security. The Court has established itself as an integral part of the international legal system, but broad, strong and principled support from the global community is required for the Court to continue achieving results and increasing its positive impact. For its part, the Court fully recognizes its own responsibility to continuously seek to improve its operations to increase efficiency and effectiveness and to enhance external support.